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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/653,408	08/31/00	MERCIER	J 060439

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SUGHRUE MION ZINN MACPEAK & SEAS PLLC  
2100 PENNSYLVANIA AVENUE NW  
WASHINGTON DC 20037-3213

EXAMINER

GONZALEZ, J

ART UNIT PAPER NUMBER

2834

DATE MAILED: 07/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/653,408

Applicant(s)

MERCIER ET AL.

Examiner

Julio C. Gonzalez

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because they do not show clearly how the propeller is connected to the gear box and the gear box to the generator. Would it be possible to show the invention using drawings from another point of view (e.g. propeller side, tubular sleeve side)? Correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant discloses in claim 1 that the rigid fairing is formed by the body of the generator. According to figure 1, the generator does not touch all of the rigid fairing. Does the generator also touch the bottom part of the pod? How is it possible for the stator to form the whole pod?

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1, 3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Carter, Jr. et al.

Carter, Jr. et al discloses a wind-power generator pod 18 constituted by a rigid fairing (see figures 1 and 2) in which a generator 34 is disposed coupled to a propeller 14, wherein the rigid fairing of the pod is formed by the body of the generator in which a stator and rotor are mounted. Also, the generator 34 is coupled to a gearbox 36.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carter, Jr. et al in view of Hirose.

Carter, Jr. et al discloses a wind-power generator pod 18 constituted by a rigid fairing (see figures 1 and 2) in which a generator 34 is disposed coupled to a propeller 14, wherein the rigid fairing of the pod is formed by the body of the generator in which a stator and rotor are mounted. Also, the generator 34 is coupled to a gearbox 36.

However, Carter, Jr. et al does not disclose lateral opening on the stator.

On the other hand, Hirose discloses for the purpose of cooling efficiently a generator that the generator disposes lateral openings right through the stator (see abstract and claim 1).

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It would have been obvious to one having ordinary skill in the art to design a pod, a rigid fairing with propellers and a generator as disclosed by Carter, Jr. et al and to make lateral opening in the stator for the purpose of cooling efficiently a generator as disclosed by Hirose.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carter, Jr. et al in view of Benoit.

Carter, Jr. et al discloses a wind-power generator pod 18 constituted by a rigid fairing (see figures 1 and 2) in which a generator 34 is disposed coupled to a propeller 14, wherein the rigid fairing of the pod is formed by the body of the generator in which a stator and rotor are mounted. Also, the generator 34 is coupled to a gearbox 36. However, Carter, Jr. et al does not disclose a tubular sleeve around the pod.

On the other hand Benoit discloses for the purpose of taking advantage of high wind speeds thus improving efficiency of the wind power generator that the pod 58 is surrounded by a tubular sleeve forming an annular air passage along the pod (see figures 2 and 3).

It would have been obvious to one having ordinary skill in the art to design a pod, a rigid fairing with propellers and a generator as disclosed by Carter, Jr. et al and to make a tubular sleeve surround the pod for the purpose of taking advantage of high wind speeds thus improving efficiency of the wind power generator as disclosed by Benoit.

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***Response to Arguments***

9. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jcg

July 16, 2001

  
NESTOR RAMIREZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800